IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No.6503 of 2005.
Date of Decision: October 30, 2006.

Onkar Singh

....**Petitioner**

through
Mr. S.R.Hooda,Advocate

Versus

Gurmukh Naunihal Singh

...**Respondent**
through
Mr. R,S.Ahluwalia, Advocate.

CORAM:

HON'BLE MR. JUSTICE SURYA KANT.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

SURYA KANT,J.(ORAL)

This revision petition is directed against the order dated 16.11.2005 passed by the Executing Court whereby the objections filed by the petitioner under Order 21 Rule 97 of the Code of Civil Procedure, have been rejected.

[2]. The dispute pertains to ownership and possession of House No. 263, Ward No.3, Shahabad Markanda, District Kurukshetra. Respondent No.1 (Gurmukh Naunihal Singh) filed a petition for ejectment under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 against respondent No.2 seeking ejectment of the said respondent from the afore-stated residential house. Though, the ejectment petition was dismissed by

learned Rent Controller vide order dated 30.9.2000, the appeal preferred by respondent No.1 was accepted by the Appellate Authority vide its judgment dated 28.3.2002. Consequently, the ejectment order was passed against respondent No.2 which has attained finality. Respondent No.1 then filed an execution petition and it appears that when warrants of possession were issued, the petitioner (Onkar Singh) emerged on the scene and filed his objections claiming himself to be owner in possession of the house in dispute. His objections, however, have been summarily rejected by the learned Additional Civil Judge (Senior Division), Kurukshetra holding that the petitioner has failed to prove his possession in respect of the house in dispute and the description of the house, possession of which is sought for in the execution petition by respondent No.1-decree holder, is different than the house claimed to be owned and possessed by the petitioner.

[3]. Aggrieved, the petitioner has filed this revision petition.

[4]. Along with the revision petition, the petitioner has placed various documents on record in order to show that he is owner of the disputed property.

[5]. At the time of motion hearing, it was pointed out on behalf of the petitioner that he is owner of House NO.263/3, Ward. No.3 which has now been described as House No.91, Ward No.6 situated at Quila Sikhan, Shahabad Markanda and that his objections were erroneously dismissed by the Executing Court on the premise as if the petitioner was claiming himself to be owner in possession of House No.263, Ward No.3 situated at Urban Estate No.1, Shahabad Markanda.

[6]. In response to the notice of motion, respondent No.1 has put in appearance.

[7]. Learned counsel for the parties have been heard.

[8]. After hearing learned counsel for the parties at length, *prima facie*, there appears to be some substance in the contentions raised on behalf of the petitioner that his objection petition which was supported with documentary evidence, ought not to have been dismissed by the Executing Court summarily and an issue in relation to the ownership of the house ought to have been framed and adjudicated.

[9]. However, it is stated at the Bar that during the pendency of this petition, the petitioner has filed a suit for declaration regarding ownership of the house in dispute in which the Civil Court has passed an order to maintain status-quo regarding possession.

[10]. In this view of the matter, it appears expedient and desirable that this revision petition is disposed of as having become infructuous without expressing any opinion on merits of the case and with liberty to the petitioner to raise all the pleas regarding his alleged ownership qua House No.263/3, Ward No.3 (New No.91, Ward No.6), situated at Quila Sikhan, Shahabad Markanda before the learned Civil Court. Ordered accordingly.

[11]. It is further directed that notwithstanding the orders passed in the eviction proceedings, the Civil Court shall be obligated to go into the question of title raised by the petitioner in respect of the house in question and meanwhile, if the petitioner is able to satisfy all the ingredients for grant of an ad-interim injunction, the learned Civil Court shall not only consider the desirability to continue the *status-quo* order but shall also dispose of the civil suit as early as possible and preferably before 31.8.2007.

Disposed of.

October 30, 2006. **(SURYA KANT)**
dinesh **JUDGE**